



Town of Carlisle

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PLANNING BOARD

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MINUTES DEC. 4, 1995

PUBLIC HEARING: Laurajon Rd. Definitive Subdivision, cont.

PUBLIC HEARING: Special Permit for common drive on Lowell St.

PUBLIC HEARING: Special Permit for common drive on Baldwin Rd., cont.

PUBLIC HEARING: Special Permit for conservation cluster and common drive on Cross St., cont.

Chair Colman opened the meeting at 7:25. All board members were present. The minutes of 11/27/95 were not ready for review. Bills were approved for payment as presented on the warrant.

Public hearing on Laurajon definitive subdivision, cont. Colman reopened the hearing at 7:30; present were Eric Durling and Russ Wilson, agents of applicant Ted Treibick, abutter Fred Lewis, Sally Lakness of the Trails Committee, and Trisha Smith of the ConsCom. The P.A. reported that further information had been received by the board since the last session of the hearing on 11/13/95: a letter from Jonathan Owen of 439 Bedford Rd., a revised subdivision plan dated 11/20/95, Supplemental Drainage Calculations from Eric Durling dated 11/15/95, a sketch plan showing clear zones for sight distances dated 11/27/95, a review letter from Graves of LandTech dated 12/4/95, and a letter dated 12/4/95 from Jake Diemert, attorney representing Ted Treibick, regarding further waivers requests. Durling was present with Wilson to discuss waivers, two of which had been requested on submission of the plan, and two more of which have evolved during the review process. Regarding the new waivers, Durling and Wilson explained that in order to fill less wetland in the road area, they were present to ask the board members to indicate whether they would consider in principal granting a waiver from the subdivision regs, sections 4.A.2.a and 5.B.1. This would allow them to redesign the road, showing the paved way approximately 10' to the west of its current planned location in the general area of stations 2+75 to 5+50. In addition, they will request an additional waiver from section 5.F.4 of the subdivision regs which requires peak flow rates to be no greater after development than before. Durling explained that he had used the Rational method to calculate the flow rates, and using this, determined no waiver would be needed, whereas Graves wants the more conservative Soil Conservation Service method used, which results in a small increase in peak flow rate. Durling is willing, he said, to use the SCS method,

which results in the need for a larger culvert, and will be submitting revised calculations to Graves for review.

LaLiberte asked how close the redesigned roadway would come to the frontage of lot 1 and 2; Durling replied about 6 feet. Tice asked how close it would come to the detention basin; Durling replied that the basin would need to be set back 10' as well to maintain the slope.

Epstein asked how the realignment would affect the drainage; Durling replied that 10+ acres drain into this area; another few feet will not make a significant difference. Lewis asked whether there would be any change to the cul-de-sac; Wilson replied there would not. Lewis commented that he is concerned about his well and his view; he was told he ought to speak to the developer as the issues he raised are not issues the planning board governs. Asked whether the Plan and Profile would change, Durling replied it would change very little, the change being predominantly in the plan view where the curve would be less. Lewis asked further information on how to address his issues. The P.A. told him all the records are public, and explained the process the BOH uses to review subdivision plans before and after planning board subdivision approval; Colman suggested he might seek the aid of an attorney.

Durling then addressed the waiver which would allow a 1:1 slope along the fill area of the road, stating that the specs for such a slope come from accepted Mass. engineering construction standards. The 1:1 slope, he explained, is the equivalent of a 45 degree angle; it is desirable here because it allows less wetland fill. A 45 degree slope, he said, will hold well when rip rapped, and as plant roots bind the soil. Tice asked the length of the guard rail along the 1:1 slope, and Colman asked whether the wood rail proposed is strong enough. Durling responded that wood is brittle and bounces cars off at certain speeds, whereas steel is resilient, and that the rail would run from about station 3+00 to 4+25, and from about station 8+75 to 9+50. The advantage of wood, Durling said, is the fact it can have reflectors and can be more visible. Tice asked how far down the slope the guard rail begins; Durling replied before the bottom, but not at the top of the slope. Wilson commented that his client would be willing to use a steel guard rail.

Wilson then discussed the bike/footpath waiver request. There is no footpath on East St., he said, and this is a street for two houses with a cul-de-sac connecting to nothing. Colman commented that neighbors on the busy East St. might like to have a quiet place to walk or bike. Duscha asked whether the shifted road layout will allow a bike/foot path. Durling stated there might need to be a footpath easement on the lots. Sally Lakness commented that her group would always like to see paths.

Wilson asked for an indication from the board as to whether he should go back and redesign. Given the redesign will be major, the board was willing to give him some sense of their current opinions, but cautioned that these were informal opinions as there would need to be additional engineering review of the new design. An informal poll of the members revealed that 6 of the 7 members found the idea of a paved way which is 10' off center of the ROW acceptable in concept if it prevents greater wetland fill; Duscha wasn't sure whether she would favor the concept. Further, 6 of the 7 were not willing to grant a footpath waiver; Tice was willing to grant it in this case. As for the 1:1 slope, Yanofsky, LaLiberte, Tice and Colman were willing to agree to the waiver if sufficient safety could be provided via guard rail. Epstein, Duscha and Hengeveld were not in favor of the 1:1

slope. The issue of the peak flow rate waiver was not discussed at this time, as the information is not complete. Trisha Smith commented that when considering public safety issues, the board should consider that the subdivision will serve at least three lots and may serve more. The hearing was continued to Dec. 18 at 8:15.

Public hearing for common drive at Lowell St. for Shield Colman opened the hearing at 8:15; the P.A. read the public notice which had been published in the *Carlisle Mosquito* on Nov. 17 and 24, 1995, and posted at town hall on Nov. 16, 1995. The P.A. explained that the applicant had sent notice to parties in interest in a timely way by certified mail, but that she had not understood that the planning board's regs require a return receipt. She had tried to contact all parties in interest except the abutting towns' planning boards to ask for documentation that they had received notice. She was unable to contact two abutters across the street, but had acknowledgement of receipt from DEM, from Ray Faucher of the Region III headquarters of the State Park system, and from abutter Kitrosser. She also has proof of mailing to all parties in interest. Hengeveld moved, and LaLiberte seconded, that the board waive the reg requiring return receipt for notice to parties in interest. Six members voted in favor; Colman voted against the motion. The hearing was therefore conducted. No parties in interest were present except Shield, who was accompanied by agent Bill McNary of Stamski and McNary. Lakness of the Trails Committee was present. Shield explained that she currently holds a special permit to build a common drive for the three lots which surround her house and lot on three sides. This permit is an extension of one originally granted to Susan Smith, former owner of the whole parcel, and it expires in January 1996. It contains the condition that she may not extend again. The successive owners of this parcel containing four lots have wished to keep the permit alive, but have hoped not to have to build the drive. So far, owners have been in a position to keep the parcel intact and unbuilt other than the existing house. Shield is now selling it, and hopes to find a buyer who will also have that goal. However, all successive owners have wanted to preserve the right to build the driveway, she explained, and if she must install it the cost of each lot will be higher, and therefore the likelihood of a buyer selling off the approved lots will be higher. She then explained that the new application shows essentially the same drive as was approved originally, and that the wetland crossing has an Order Of Conditions which will run into 1998. The new plan, however, differs from the original one in that it shows a 42' cul-de-sac; the original plan had a turnout at the end. Shield also explained that the property is surrounded almost completely by the state park. McNary explained that there were four turnouts on the original plan, but now there are two and the cul-de-sac. In reviewing Graves' 11/30 letter, McNary commented point by point. He said that compaction specs are not required in the regs, but he would add them to the plan; that the swales could be indicated on the driveway section, with a note stipulating 6-12" depth; that the shoulders will be loamed and seeded and a note can be added stipulating this; that the ConsCom permit, as already stated, is valid to 1998, and that although one doesn't usually show the buffer of an unbuilt wetland replication area, he is willing to do it; that the cul-de-sac, as shown, will not have an island; that there are no trees at the entrance to the driveway off Scenic Lowell St. but 40' of wall will have to be removed; that the utilities haven't been located yet and they'd rather allow the buyer to do that, but that they can state on the plan they'll either be buried or concealed by mature woods as the

regs require; that the setback of the drive from external property lines is 40' where the drive is adjacent to abutter Kitrosser, and narrows to 20' where the state park is the abutter. Finally, regarding both the previous Graves comment and the more than 1300' length, McNary explained that the design issues, in addition to placing the wetland crossing at the narrowest crossing point, were the wish to keep the drive as far south as possible to keep it less visible and to keep the houses away from the park.

Other questions elicited the information that the drive is shown as a 16' travelled way at the entrance and a 12' travelled way past the first private drive. The cul-de-sac is located 100' before the end of the common drive. Lakness asked Shield if she would consider granting a trail easement as the property has no trails even though it is surrounded by state park trails. Shield asked how Lakness thought the trails could connect through the large Tophet Swamp. Lakness replied she didn't know, but that trail establishment is a piecemeal thing done with the future in mind. Shield commented that there has been vandalism on her property which she blames on some of the 400,000 visitors the park hosts every year. Lakness suggested she consider at least a C.R., if not an actual trail, to preserve the option for the future.

The board asked McNary to amend the plan in the minor ways suggested by Graves; McNary said he could easily comply with comments 1-6 and 8 (he will show buried utilities on the driveway section). Shield will devise a name for the drive and submit it to the fire and police chiefs and the town clerk if the board deems that to be the intent of the regs. The maintenance agreement, said McNary, is an issue between Shield and the board. Bayne will provide the draft agreement to the board members in the packet for the next meeting. The hearing was continued to Dec. 18, 1995 at 9 pm.

Public hearing common drive at Baldwin Rd. for Evans, cont. Colman reopened the hearing at 9:15. Present were Jane, Ken and Scott Evans, their attorney Valerie Swett and engineer March, abutter Mary Deacon, Jay Luby and Ken Harte. The P.A. reported that she had not yet received a written opinion from town counsel Lane regarding the applicability of subdivision regs regarding dead-end roads which exceed 1000' in length, but she had discussed the question with her. Lane agreed with Bayne that this reg cannot apply to ANR lots. If the ANR is endorseable, then the decision is only whether to approve a common drive special permit. Swett asked that the decision on the common drive recognize this opinion of counsel. The P.A. noted the board had received a final review from Graves dated 11/28.

Duscha asked the applicants to explain again why the common drive easement goes all the way to parcel A as she felt it does not serve common drive purposes. Scott Evans replied that if potential conservation restrictions for parcel A do not happen, they wish to keep the possibilities open for its sale. Swett added that as configured, the common drive easement allows a variety of designs for the private drives on lots 3 and 4 depending on where the houses are located. Yanofsky asked if there is other access to parcel A; March replied the cart path is high and dry, and there is very little other dry land to provide options. The P.A. commented that no lot could be added to the common drive without amending the permit, which requires the public notice and hearing process. LaLiberte commented that he would condition any special permit with a statement that no tacit agreement for an

addition is given or implied, and that nothing the board does now should be construed as an authorization to access parcel A.

Epstein felt the new draft common drive agreement was much closer to what the board wished to see. He cautioned Swett to make sure the plan references are precise and asked her to use the words "in common with all others" consistently, either always or never. He asked if the board wished to specify snow removal from the shoulders; board members agreed they do wish that. Swett was asked therefore to specify it. He also suggested the removal of "all other debris" be added to the list of specific clean up items. Bayne asked that the name of the drive be added in section 2.d. Epstein agreed to review the next draft. The P.A. was asked to request town counsel review the amendment section of the draft. She will be asked whether such wording is commonly used, and if it is acceptable, are there additional protections she would add to provide a desirable balance between the right of the homeowner to maintain flexibility and the duty of the planning board to preserve safety.

Yanofsky asked whether Evans would consider a trail easement along the common drive to provide access to parcel A and to Estabrook Woods. Scott Evans replied that if parcel A is conserved in some way, and if the homeowners wish a trail, then the Evans would consider the possibility. Other possibilities for a trail exist, he said. Ken Harte raised a number of conservation related issues. He commented that there had been a restriction option which had just expired for lack of funds, and expressed gratitude to the Evans for having been willing to grant the option. Although the option has expired, he said, the old cart path the common drive follows seems a perfect place for a pedestrian easement to parcel A. Last, he asked the board to prohibit a road from being built through to Estabrook Woods. Epstein asked how this request could be considered within the purview of a common drive application. LaLiberte asked if the trail easement suggested by Harte is possible. Scott Evans replied they do not wish to consider the trail easement at this time. March commented that if the board would prefer, the plan could be redesigned to show the end of the common drive easement near parcel A as an access easement. There being no more public comment, Colman continued the hearing to Dec. 18 at 9:15 pm.

Public hearing on conservation cluster and common drive at Cross St. for Fielding, cont.

Colman opened the hearing at 9:45. Present were applicants John and Chris Fielding, their engineer March, parties in interest Dick and Judy Wells, Janet and Michael Kelley, Susan Stamps, Bobby Lyman, Bonnie and Gabor Miskolczy, and Douglas Stevenson, and neighbor Ken Ernstoff. March reiterated the ways in which he and his clients feel the proposed cluster meets the goals of the cluster bylaw. After pointing out that the bylaw requires a finding that only "one or more" of the purposes have been met, he listed the following:

- 5.5.1.1.1: the most significant woods, fields and streams would be preserved;
- 5.5.1.1.2: views of the field would be preserved and the 800' deep buffer provided by the preserved pine woods would prevent passersby on Cross St. from seeing the proposed homes;

5.5.1.1.3 the historic Berry Corner where Concord, Acton and Billerica once met is within the open space and is noted on a marker on Cross St.

He went on to explain why it was logical yet inappropriate for the BOH to deny the plan. The planning board regs require the plans be submitted to BOH, but do not require soils information. Although this is not a subdivision, the only form of general plan the BOH has a way of responding to is a subdivision plan. So they applied subdivision standards to it, which means they looked for deep test hole and perk test information, which was missing. Therefore they denied the plan for lack of information. However, he said, the preliminary soils testing results have been positive. He commented that although the Berry Corner Lane homeowners have concerns about their water quantity, his firm considers the soils in Carlisle to create a closed system with no net loss of water, i.e., the same amount of water is deposited in the system as is drawn out of the system. Regarding water quality, he stated that no building permit can be given for any lot until it has a septic system approved by the BOH, and in addition, the applicant has offered to locate wells as far away as possible from the Berry Corner Lane wells. Commenting on the issue of common driveway length, he noted that Graves of LandTech had agreed that it makes more sense to have a longer common drive and shorter individual drives, because there is more control over the construction and maintenance of a common drive. The drive is 1250' long to where it the cul-de-sac begins, and 975' long to the first two private drives. Finally, he displayed the very preliminary sketch plan for a subdivision which in terms of zoning requirements allows 5 lots; it was prepared, he said, because some neighbors had asked to see such a plan.

The P.A. noted that the following had been submitted to the board since the last session of the hearing:

a letter from Chris Fielding with a preliminary subdivision sketch;

a letter from Bobby Lyman with an enclosure;

and a letter from Dick Wells.

Epstein asked if the Fieldings were offering to expand the open space; they replied they were not. The pine woods, a pure stand, will largely be preserved, said John Fielding, and to him these are the most significant part of the open space. Some of them will be removed to do the wetland crossing on the common drive. John Fielding did offer to extend the trail from the open space across the common drive, and pointed out that the field would have completely open access from the street. Duscha commented that christmas trees don't say agriculture to her; she would prefer to allow farm succession stages to return the field to woods. John Fielding raised the issue of form of ownership of the open space. The bylaw allows three options, the least desirable of which in his opinion is ownership by a homeowners' association. He is willing for the town to own the land, and he is willing to retain ownership under a conservation restriction such as he submitted.

Susan Stamps commented that she had changed her mind about the cluster. Although she had opposed it at an earlier session of the hearing, she now supports it because she feels Cross St. is very built up with little open space left. The field, she said, is significant, and the woods will be less affected by the cluster than by ANR development.

Ernststoff commented that other clusters of which he is aware had more benefit to the town; Ice Pond, for instance, gave the town a trail to link two portions of the state forest, and a

vernal pool. He was concerned a precedent might be set here for granting a cluster permit for too little benefit. If a subdivision is the alternative, he said, then at least the road would be safer than this very long driveway.

Dick Wells commented that March's hydrological assumption may be valid on a large scale, but is invalid on a lot by lot basis. Also, he said, Stamps good view would be balanced by his diminished view.

Bonnie Miskolczy agreed with Ernstoff, and Judy Wells stated that three lots is enough. The issue of the large abutting parcel owned by Ward was discussed. No one knew Ward's intent for his land. March commented that the 5' strip of open space around the whole parcel would prevent any linking of Ward's land with this cluster. In response to comments that the Berry Corner cairn is protected by being in the buffer zone, March replied that it could be dismantled by the owner of the lot in which it would lie. Janet Kelley and Gabor Miskolczy both opposed the cluster. Colman polled members regarding their opinions of the value of the open space. Yanofsky, Tice, Colman, and Duscha expressed a range of positive opinions, with Tice, Yanofsky and Duscha expressing an interest in greater detail on ownership and use options. LaLiberte and Hengeveld felt the open space was not sufficiently valuable to merit a cluster permit. Epstein said that he wasn't convinced, and asked the applicants to show that wells wouldn't be harmed, stating the burden of proof was on them.

In response to board comments, John Fielding replied that he would like to retain an agricultural use, but was willing to grow something other than Christmas trees. He is willing to place the trail on the plan and in the common drive agreement. Colman asked if Fielding is willing to do a small water study. Fielding said he was not, as the BOH would be assuring water quality anyway. Two acre zoning, he commented, was designed to protect wells. Yanofsky asked if the BOH files could be reviewed for well failures; March replied that some research could be done in a general way.

Ernstoff asked if the board couldn't make a more definitive statement tonight so abutters wouldn't have to return; Epstein replied that he needed more information. He asked March if when he stated the proposed preservation of the field and woods met the criterion of "the most significant" he was referring to all of Carlisle or just to the parcel. March replied that he thought the bylaw meant "most significant" on the parcel. Fielding reiterated that these pines are a pure stand, significant because this is unusual in Carlisle. He reiterated that these trees form a buffer between the proposed houses and Cross St. observers of the field.

LaLiberte asked whether if the hearing is kept open there would be any new information regarding the uniqueness of the open space. Yanofsky commented that she felt the board might wish to see new proposals regarding use and ownership of the proposed open space. Bonnie Miskolczy asked if the Fielding land is on the list of desirable parcels in the town's Open Space and Recreation report; it was agreed that it is not. Bobby Lyman commented that she drives by often and the beauty of the field does not strike her. If the neighbors have said they don't want it, she queried, why should the board approve it? Having heard these further comments, board members polled themselves again. The opinions were: Yanofsky, Tice and Duscha - yes; Hengeveld, LaLiberte, and Epstein - no.

Fielding commented that he would like to see the hearing continued for both special permits under consideration, and that the common drive permit might still be sought. The board agreed to continue the joint hearing until Jan. 8 at 7:30 pm.

The board discussed briefly a letter from new planner Mansfield, who had some questions for the board. Yanofsky and Colman agreed to work on these questions. The meeting was closed at 11:25.

Submitted by Sandy Bayne, planner assistant